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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF
THE TOWN OF SAHUARITA TO UPGRADE
AN EXISTING CROSSING OF THE UNION
PACIFIC RAILROAD ON RANCHO
SAHUARITA BOULEVARD, AT PIMA MINE
ROAD, IN THE TOWN OF SAHUARITA,
PIMA COUNTY, ARIZONA, DOT CROSSING
NO. 742177R.

DOCKET NO. RR-03639A-09-0282

PROCEDURAL ORDER

BY THE COMMISSION:

On June 2, 2009, the Town of Sahuarita ("Town") filed with the Arizona Corporation Commission ("Commission") an application for approval to upgrade an existing at-grade railroad crossing of the Union Pacific Railroad ("Railroad") on Rancho Sahuarita Boulevard, at Pima Mine Road, by installing flasher signals and gates on the median and edge of the roadway, a cantilever for the northbound direction, railroad pavement markings and crossing signs, and simultaneous preemption with the signal and pre-signal to be installed at Pima Mine Road. The crossing is DOT Crossing No. 742177R and is located within the Town, in Pima County, Arizona.

The Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the Town's application shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. §§ 40-337 *et seq.*

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **August 12, 2009, at 10:00 a.m.**, or as soon thereafter as is practicable, in Room 100 at the Commission's offices at 1200 West Washington Street, Phoenix, Arizona.

1 IT IS FURTHER ORDERED that within five business days of receipt of this Procedural
 2 Order, the Town shall provide the Railroad, Pima County, the Arizona Department of
 3 Transportation, any potentially impacted Tribal Nation, and any other municipality or
 4 interested person that may be affected by the application with a copy of the application and this
 5 Procedural Order by certified mail.

6 IT IS FURTHER ORDERED that the Railroad Safety Section of the Commission's Safety
 7 Division ("Staff") shall prepare a written Staff Report and associated exhibits to be presented at
 8 hearing and file copies of them with Docket Control on or before 4:00 p.m. on July 17, 2009. Staff
 9 shall ensure that a copy of the Staff Report and associated exhibits is provided to the Town, the
 10 Railroad, and any other person identified in the service list for this docket.

11 IT IS FURTHER ORDERED that any objections to the Staff Report and associated
 12 exhibits shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on July 31,
 13 2009.

14 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-
 15 105, except that all motions to intervene must be filed on or before July 31, 2009.

16 IT IS FURTHER ORDERED that the Town shall provide public notice of the hearing in this
 17 matter, in the following form and style, with the heading in no less than 12-point bold type and the
 18 body in no less than 10-point regular type:

19 **PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE APPLICATION**
 20 **OF THE TOWN OF SAHUARITA TO UPGRADE AN EXISTING CROSSING OF**
 21 **THE UNION PACIFIC RAILROAD ON RANCHO SAHUARITA BOULEVARD, AT**
 22 **PIMA MINE ROAD, IN THE TOWN OF SAHUARITA, PIMA COUNTY,**
 23 **ARIZONA, DOT CROSSING NO. 742177R.**
 24 **(DOCKET NO. RR-03639A-09-0282)**

25 On June 2, 2009, the Town of Sahuarita ("Town") filed with the Arizona Corporation
 26 Commission ("Commission") an application for approval to upgrade an existing at-
 27 grade railroad crossing of the Union Pacific Railroad ("Railroad") on Rancho
 28 Sahuarita Boulevard, at Pima Mine Road, by installing flasher signals and gates on
 the median and edge of the roadway, a cantilever for the northbound direction,
 railroad pavement markings and crossing signs, and simultaneous preemption with
 the signal and pre-signal to be installed at Pima Mine Road. The crossing is DOT
 Crossing No. 742177R and is located within the Town, in Pima County, Arizona.

1 The Railroad Safety Section of the Commission's Safety Division ("Staff") is in the
2 process of analyzing the application and has not yet made any recommendations in
3 this matter. The Commission will determine whether to grant the application based
4 on the evidence of record in this matter. The Commission is not bound by the
5 proposals made by the Town, the Railroad, Staff, or any intervenors.

6 Copies of the application and the other documents filed in this matter are available at
7 the Commission's Docket Control Center at 1200 West Washington Street, Phoenix,
8 Arizona, for inspection during regular business hours, and on the Internet via the
9 Commission's website (www.azcc.gov) using the e-Docket function.

10 The Commission will hold a **hearing** in this matter beginning on **August 12, 2009,**
11 **at 10:00 a.m.,** in Room 100 at the Commission's offices at 1200 West Washington
12 Street, Phoenix, Arizona. Public comments will be taken on the first day of the
13 hearing. Written public comments may be submitted by mailing an original and 13
14 copies of a letter referencing Docket No. RR-03639A-09-0282 to the Commission's
15 Docket Control Center, 1200 West Washington Street, Phoenix, Arizona 85007.

16 Any person or entity entitled by law to intervene and having a direct and substantial
17 interest in the matter will be permitted to intervene. If you desire to intervene, you
18 must file an original and 13 copies of a written motion to intervene with the
19 Commission's Docket Control no later than **July 31, 2009**. You must send a copy of
20 the motion to intervene to the Town or its counsel and to all parties of record. Your
21 motion to intervene must contain the following:

- 22 1. Your name, address, and telephone number and the name, address, and
23 telephone number of any person upon whom service of documents is to be
24 made, if not yourself;
- 25 2. A short statement of your interest in the proceeding (e.g., a customer of the
26 Railroad, a neighboring property owner, a crossing user, etc.); and
- 27 3. A statement certifying that you have mailed a copy of the motion to intervene
28 to the Town or its counsel and to all parties of record in the case.

17 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
18 that all motions to intervene must be filed on or before July 31, 2009. If
19 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
20 Court, intervention will be conditioned upon the intervenor's obtaining counsel to
21 represent the intervenor. For information about requesting intervention, visit the
22 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
23 The granting of intervention, among other things, entitles a party to present sworn
24 evidence at hearing and to cross-examine other witnesses. However, failure to
25 intervene will not preclude any interested person or entity from appearing at the
26 hearing and providing public comment on the application or from filing written
27 comments in the docket for the case.

23 If you have any questions about the application, you may contact the Town at **[insert**
24 **telephone number]**.

25 The Commission does not discriminate on the basis of disability in admission to its
26 public meetings. Persons with a disability may request a reasonable accommodation
27 such as a sign language interpreter and request this document in an alternative format
28 by contacting the ADA Coordinator, Guadalupe Ortiz, at gortiz@azcc.gov, voice
phone number 602-542-3931. Requests should be made as early as possible to allow
time to arrange the accommodation.

1 IT IS FURTHER ORDERED that the Town shall cause the above notice to be **published** at
2 least once in a newspaper of general circulation in the area where the crossing is located, with
3 **publication to be completed no later than July 10, 2009.**

4 IT IS FURTHER ORDERED that notice shall be deemed complete upon the publication of
5 same, notwithstanding the failure of an individual or entity to read or receive the notice.

6 IT IS FURTHER ORDERED that the Town shall **file certification of notice with the**
7 **Commission's Docket Control as soon as practicable** after the publication of notice ordered herein
8 has been completed, and **no later than July 31, 2009.**

9 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
10 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
11 *pro hac vice*.

12 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
13 Communications) applies to this proceeding and shall remain in effect until the Commission's
14 Decision in this matter is final and non-appealable.

15 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
16 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
17 ruling at hearing.

18 DATED this 17th day of June, 2009.

19
20
21 
22 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

23
24 Copies of the foregoing mailed/delivered
this 17th day of June, 2009, to:

25 Farhad Moghimi, Public Works Director
26 TOWN OF SAHUARITA-PUBLIC WORKS DEPARTMENT
27 375 West Sahuarita Center Way
Sahuarita, Arizona 85629
28

1 Daniel J. Hochuli, Town Attorney
2 TOWN OF SAHUARITA, ARIZONA
3 375 West Sahuarita Center Way
4 Sahuarita, Arizona 85629

5 Aziz Aman, Manager of Special Projects
6 UNION PACIFIC RAILROAD COMPANY
7 2073 East Jade Drive
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12 302 East Coronado Road
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14 Attorneys for Union Pacific Railroad Company

15 Robert Travis, PE, State Railroad Liaison
16 Utilities & Railroad Engineering Section
17 ARIZONA DEPARTMENT OF TRANSPORTATION
18 205 South 17th Avenue, Mail Drop 618E
19 Phoenix, Arizona 85007

20 Traffic Records Section
21 ARIZONA DEPARTMENT OF TRANSPORTATION
22 206 South 17th Avenue, Mail Drop 064R
23 Phoenix, Arizona 85007


24 Bob Roggenthen, PE
25 Traffic Engineering Division
26 PIMA COUNTY DEPARTMENT OF TRANSPORTATION
27 1313 South Mission Road
28 Tucson, Arizona 85713-1398

Brian Lehman, Chief
Railroad Safety Section
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
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Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

By:


Debra Broyles
Secretary to Sarah N. Harpring